

Approved: 3-31-95  
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 20, 1995 in Room 519-S of the Capitol.

All members were present except: Rep. Doug Lawrence - excused  
Rep. Robert Krehbiel - excused

Committee staff present: Chris Courtwright, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Ann McMorris, Committee Secretary

Conferees appearing before the committee: Listed after bills heard.

Others attending: See attached list

Chair continued hearing on:

**HCR 5023 - Constitutional amendment imposing aggregate limitations upon expenditures by the state and its taxing subdivisions**

**HCR 5006 - Constitutional amendment imposing aggregate limitations upon levy of taxes and expenditures by the state and its taxing subdivisions**

**HCR 5007 - Constitutional amendment limiting state general fund appropriations and mandates on local government.**

Opponents:

Chris McKenzie, League of Kansas Municipalities (Attachment 1)

Ernie Mosher, City of Topeka

Mark Tallman, Kansas Assn. of School Boards (Attachment 2)

Chair closed hearing on **HCR 5023, HCR 5006 and HCR 5007.**

Chair opened hearing on

**SB 301 - Income tax credit for education and training of qualified firm's employees**

Chair noted due to short notice given on hearing of **SB 301** no proponents or opponents were present. He continued hearing on this bill to the next meeting on March 21.

Rep. Donovan distributed to the committee for their advance reading tthe subcommittee reports on **HB 2512** and revised version of **HB 2512** and **HB 2513.** (Attachment 3)

Moved by Hayzlett, seconded by Shore, **HB 2176** be passed favorably as recommended by the subcommittee. Motion carried.

Moved by McKinney, seconded by Welshimer, amend **HB 2328** to delete authority to continue this position as of April 1, 1999. Motion carried.

Moved by Shore, seconded by McKinney, **HB 2328** be passed favorably as amended. Motion carried.

Chair announced the Taxation Committee would continue to meet the rest of the week on first adjournment of the house each day.

The next meeting is scheduled for March 21, 1995.

Adjournment  
Attachments - 3

# TAXATION COMMITTEE GUEST LIST

DATE: March 20, 1995

NAME	REPRESENTING
Whitney Damon	Pete McMill's Associates
Greg Hill	Sen. Moran's office
Christy Bailey	Sen. Karr's office
Pam Somerville	KS AUTO DEALERS ASSN
Anne Spiess	KS Assoc of Counties
Mark Tallman	KASB
Joe Lieber	KS Co-op Council
Mary Jane Stettin	KS Fund Bureau
MARTIN MARTIN	KAP
Roger Frazzle	FEC
David Byler	KDOCH
Mikel Miller	KANSAS Inc.
Charles Warr	Kansas, Inc.
MARK GIARDULLO	
Steve Stotts	Revenue



**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**LEGISLATIVE TESTIMONY**

**TO:** House Taxation Committee  
**FROM:** Chris McKenzie, Executive Director *CM*  
**DATE:** March 16, 1995  
**SUBJECT:** Opposition to HCR 5023

Thank you for the opportunity to testify today in opposition to HCR 5023, the proposed constitutional spending lid on state, county and city governments. I appear on behalf of the 543 member cities of the League and their over 3,000 elected governing body members who are elected by the same electors who elect you and who visit with them on a daily basis about local spending priorities. Our opposition is grounded on both general and specific principles which are as follows:

**1. General**

In 1960 the voters of our state adopted Article 12, Section 5 of the Kansas Constitution, known popularly as the "home rule amendment". Through that amendment the people of our state delegated direct legislative powers to the cities of Kansas except as limited by the legislature. Two provisions of that amendment state the strong preference of the public for local control of municipal government:

(b) Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class: *Provided*, That the legislature may establish not to exceed four classes of cities for the purpose of imposing all such limitations or prohibitions...

(d) Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self government.

In 1996 we will celebrate the 35th anniversary of the Kansas home rule amendment which empowered city governing bodies with additional authority to solve local problems, subject only to limitations imposed by the legislature. It has liberated cities from the need to seek legislative blessing for every local action, thereby creating more self-sufficient and innovative local government.

HCR 5023 would deal a serious blow to the home rule amendment by imposing unjustified limitations on spending decisions by city elected officials who are just as accountable to the electorate as their state legislative colleagues. In fact, in light of the closer public scrutiny of local spending, it is ironic that HCR 5023 would subject local spending decisions to an even higher level of restrictions than it does state spending decisions.

## Specific Objections

**1. No Demonstrated Need.** Due to the fact local government actions are subject to more public scrutiny, local spending decisions take place in a fish bowl which is generally well covered by the news media and followed by the public. As you know, many city councils' meetings have been on cable television for years. What could be better access short of being there? We are unaware of any information indicating a problem with the reasonableness of local spending decisions. In fact, the table attached to my testimony from a recent report on state and local expenditures and revenues<sup>1</sup> reveals that Kansas has per capita local general expenditures which are less than the average for our region and the United States on average. Furthermore, as the second attached table from the Municipal Accounting Section indicates, cities have had among the lowest rates of increase in ad valorem taxes between 1991 and 1994. In other words, there seems to be no evidence of a need for this amendment with regard to cities. Given the importance of a constitutional amendment it would seem inappropriate to include provisions which are not supported by the evidence.

**2. Cities Are Already Subject to Considerable Legislative Restrictions.** Both before and since the 1960 home rule amendment, the legislature has exercised considerable control over local financial practices. These range from the 1930's cash basis and budget laws to today's property tax lid and fund levy rate limits. Furthermore, the legislature has preempted cities' ability to levy income and excise taxes, as well as other forms of revenue. There is no evidence of the legislature's inability to act to address a problem when one indeed arises.

**3. Cities Are Already Subject to Initiative and Referendum.** Cities are the only level of government in Kansas today subject to initiative and referendum (see K.S.A. 12-3013). HCR 5023 suggests that additional restrictions and oversight are necessary. In addition to the initiative and referendum law, cities are subject to numerous statutes which impose either mandatory referendum or petition for referendum opportunities. We hardly need yet another restriction.

**4. HCR 5023 Discriminates Against Cities.** The emergency spending provisions of HCR 5023 treat cities significantly differently than the state by imposing unanimous vote requirements in Section 3(b) on cities (subject to a voter petition for a referendum) when state government, the level of government more removed from the public, could exceed its limitation by a 3/5 vote of the House and Senate without any petition for an election provisions. If anything, the opportunity for an election should be easier at the state level given the distance from the electorate at which state government operates. Furthermore, by subjecting the spending of only cities and counties to the local spending lid provisions, this resolution would unfairly single them out for restriction without touching the spending practices of literally thousands of other local units of government.

**5. All Categories of Spending Included.** The inclusion of all categories of local government spending in HCR 5023 ignores the fact that cities operate utilities and other "enterprise" activities that are mostly if not entirely fee for service based. It seems unnecessary to subject such spending to a

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<sup>1</sup>*Significant Features of Fiscal Federalism, Vol. 2, Revenues and Expenditures*, Advisory Commission on Intergovernmental Relations, December, 1994, pp. 144 - 147.

spending lid law when the charges simply reflect the cost of doing business. This is also true of bond financed water, sewer and electric improvements. Today cities may issue revenue bonds without voter approval for such projects and general obligation bonds without voter approval (as a result of a 1994 enactment of the legislature) for water system improvements. Since such bond issues are not voter approved, the bonds could not be issued and the expenses incurred of servicing the bonds because no mandatory referendum was required. By the way, the home rule amendment (Article 12, Sec. 5 of the Kansas Constitution) provides that cities may call referendums "only in such cases as prescribed by the legislature..." As a result, if the legislature has not already provided for a city governing body to call a referendum on a subject, it will require a special legislative act before the election requirements of paragraph (C) on page 3 can be satisfied.

**6. Conflicts With Existing Statutory Election Requirements Likely.** The referendum requirements of HCR 5023 will likely conflict with the election procedures of certain existing statutes. For example, if a city proposed a home rule tax levy of some sort and adopted it pursuant to K.S.A. 12-137, such a tax would be subject to a petition for a referendum under that statute. K.S.A. 12-137 already requires that such taxes be approved by a 2/3 vote of the city governing body if they are not subjected directly to the voters for approval. Under either approach, if an election is held and the tax approved, the referendum would **not** grant authority to increase spending above the lid imposed by HCR 5023. A **second** ballot proposition would be necessary in order to get voter approval of authority to spend the proceeds of such a tax for up to four years (see Sec. 3(c), page 5). In other words, a municipal governing body may have the authority to levy a tax but **not** spend it.

**7. Special Assessment Financing for New Developments Are Likely To Decline.** Since the late 1950s Kansas law (K.S.A. 12-6101) has authorized city governing bodies to issue general obligation bonds of the city to finance the construction of streets, sidewalks, sewers, etc. in developing areas, the principal and interest payments on which are financed by special assessments against the benefitted property. This type of "benefit district" financing does not require voter approval. As a result, it is reasonable to expect this type of financing will be less likely to be approved by city governing bodies if HCR 5023 is enacted. It will be impractical in developing areas for most city governing bodies to call referenda on such bond issues in order to secure the additional spending authority.

**8. Spending of Funds Received From State Government Excluded.** Historically state government has provided some baseline level of state aid to cities through motor fuel tax and other revenue sharing programs. In the event such shared revenues increase in the future at a rate when combined with other revenue sources exceeds the allowed benchmark rate for the city, such increases could not be spent. In addition, funds received from various categorical grant programs of state government could not be spent if, when combined with other revenues, the spending would exceed the allowed benchmark.

**9. Intergovernmental Consolidation Inhibited.** Increasingly cities and counties are seeking ways to combine their services to save taxpayers' moneys and improve the cost-effectiveness of service delivery. In Wyandotte County close study is being made of city-county consolidation. No provision is included in the legislation for these changes and the shift of spending authority to such entities.

### **Conclusion**

HCR 5023 would undo 35 years of history of self reliance and self governance that was authorized by the Kansas home rule amendment in 1960. For those legislators who ran last year on a platform of "local control", HCR 5023 will yield the exact opposite. It represents state micro-management of local affairs at its most excessive. Perhaps most importantly, the unintended consequences of this measure may be more important than its intended consequences. I have tried today to identify some of those possible unintended consequences, but I am sure many others remain to be discovered.

**RECOMMENDATION:** We strongly urge the Committee not to pass this measure or to restrict its application only to state government.

Table 77  
Local General Expenditures, Per Capita, FY 1992

Region and State	Total	Intergovernmental	Direct								Exhibit: 7/1/92 Population (thousands)
			Total	Elementary and Secondary Education	Health and Hospitals	Interest on General Debt	Police	Public Welfare	Highways	All Other	
United States	\$2,235	\$29	\$2,207	\$889	\$182	\$120	\$116	\$113	\$103	\$684	255,075
New England	1,903	32	1,871	927	56	54	104	35	81	614	13,195
Connecticut	2,196	†	2,195	1,125	29	61	118	73	88	702	3,279
Maine	1,720	†	1,720	955	37	65	59	21	111	472	1,236
Massachusetts	1,887	63	1,824	813	96	52	112	12	67	672	5,993
New Hampshire	1,767	39	1,727	886	14	58	93	88	100	488	1,115
Rhode Island	1,565	†	1,565	868	2	38	107	28	46	476	1,001
Vermont	1,640	†	1,640	1,119	5	26	49	1	151	290	571
Mideast	2,937	120	2,835	1,086	169	165	145	251	108	912	44,117
Delaware	1,572	14	1,559	903	10	89	89	2	63	402	691
District of Columbia	7,561	-	7,561	1,066	915	404	466	1,491	208	3,012	585
Maryland	1,946	16	1,930	849	45	120	114	8	86	708	4,917
New Jersey	2,647	50	2,597	1,205	61	105	143	137	87	859	7,820
New York	3,864	215	3,649	1,225	291	180	190	445	149	1,167	18,109
Pennsylvania	1,984	10	1,974	906	77	191	78	86	66	570	11,995
Great Lakes	2,069	10	2,059	889	149	82	111	77	125	625	42,719
Illinois	2,016	2	2,014	803	95	101	130	25	133	727	11,613
Indiana	1,785	10	1,775	858	202	60	60	68	80	447	5,658
Michigan	2,217	21	2,196	1,013	184	75	113	38	120	653	9,434
Ohio	1,949	10	1,939	831	151	74	107	129	109	539	11,021
Wisconsin	2,494	3	2,490	1,019	150	92	129	165	206	730	4,993
Plains	2,048	10	2,038	901	153	115	86	81	159	542	17,920
Iowa	2,045	26	2,020	920	193	79	78	48	199	504	2,803
Kansas	1,967	†	1,967	859	144	161	93	14	161	534	2,515
Minnesota	2,825	17	2,808	1,064	238	208	101	254	217	725	4,468
Missouri	1,587	†	1,587	782	100	63	88	14	94	446	5,191
Nebraska	1,904	5	1,899	927	129	62	70	28	144	540	1,601
North Dakota	1,671	18	1,653	835	12	98	54	43	147	463	634
South Dakota	1,490	6	1,485	823	42	34	60	15	159	352	708
Southeast	1,810	7	1,803	758	219	115	95	23	74	517	61,103
Alabama	1,505	2	1,503	579	285	95	79	11	91	365	4,138
Arkansas	1,254	†	1,254	707	101	71	54	1	74	246	2,394
Florida	2,280	5	2,275	820	203	175	153	18	101	805	13,483
Georgia	1,966	3	1,963	803	420	84	90	8	76	481	6,773
Kentucky	1,362	1	1,362	655	110	154	56	8	58	321	3,754
Louisiana	1,811	4	1,807	811	194	140	105	9	86	462	4,279

Table 77 (cont.)  
Local General Expenditures, Per Capita, FY 1992

Region and State	Total	Intergovernmental	Total	Direct							Exhibit: 7/1/92 Population (thousands)	
				Elementary and Secondary Education	Health and Hospitals	Interest on General Debt	Police	Public Welfare	Highways	All Other		
<b>Southeast (cont.)</b>												
Mississippi	\$1,549	†	\$1,548	\$639	\$291	\$82	\$58	\$9	\$100	\$369	2,615	
North Carolina	1,803	30	1,773	785	255	64	81	60	40	489	6,836	
South Carolina	1,595	8	1,587	786	241	76	69	2	28	385	3,603	
Tennessee	1,549	6	1,543	586	221	101	81	16	87	451	5,025	
Virginia	1,873	10	1,863	852	70	107	94	79	61	598	6,394	
West Virginia	1,425	1	1,424	867	120	137	38	†	20	241	1,809	
<b>Southwest</b>	<b>1,926</b>	<b>10</b>	<b>1,916</b>	<b>857</b>	<b>160</b>	<b>162</b>	<b>101</b>	<b>19</b>	<b>89</b>	<b>529</b>	<b>26,302</b>	
Arizona	2,198	55	2,142	836	94	211	130	78	111	682	3,832	
New Mexico	1,785	14	1,771	827	92	113	104	18	95	522	1,582	
Oklahoma	1,605	1	1,604	775	189	95	78	4	94	369	3,205	
Texas	1,938	1	1,937	879	175	167	98	9	83	526	17,683	
<b>Rocky Mountain</b>	<b>2,074</b>	<b>11</b>	<b>2,063</b>	<b>898</b>	<b>142</b>	<b>138</b>	<b>99</b>	<b>67</b>	<b>128</b>	<b>589</b>	<b>7,629</b>	
Colorado	2,413	17	2,396	902	150	201	119	125	165	734	3,465	
Idaho	1,633	10	1,623	776	184	31	80	27	116	409	1,066	
Montana	1,750	11	1,739	937	72	102	69	35	102	422	822	
Utah	1,599	4	1,595	835	60	89	79	8	77	447	1,811	
Wyoming	2,984	2	2,981	1,331	430	176	122	14	129	780	465	
<b>Far West</b>	<b>2,694</b>	<b>25</b>	<b>2,668</b>	<b>872</b>	<b>249</b>	<b>113</b>	<b>152</b>	<b>238</b>	<b>103</b>	<b>942</b>	<b>42,090</b>	
Alaska	3,517	†	3,517	1,343	145	469	138	28	167	1,228	588	
California	2,865	33	2,832	863	288	111	166	320	98	986	30,895	
Hawaii	1,091	†	1,091	1	12	68	141	10	64	797	1,156	
Nevada	2,590	1	2,589	891	222	224	169	33	135	916	1,336	
Oregon	2,209	3	2,207	965	131	64	97	10	137	803	2,972	
Washington	2,239	7	2,232	1,008	159	93	101	3	102	766	5,143	

- represents zero

† less than \$1 per capita

<sup>1</sup> The state directly finances elementary and secondary education.

Source: ACIR computations based on data supplied by the U.S. Department of Commerce, Bureau of the Census. Published source: *Government Finances: 1991-92* (Preliminary).



**Statewide Ad Valorem Levies By Type of Taxing District for 1991 to 1994**  
 (Amounts are expressed in millions)

	1991	1992	1993	1994	Percent of 1994 Total	Percent of Increase		
						91-92	92-93	93-94
State	\$ 21.95	21.90	22.31	23.25	1.27%	-0.23%	1.87%	4.21%
County	392.83	413.55	454.29	472.66	25.82%	5.27%	9.85%	4.04%
City	260.61	271.42	285.32	296.60	16.20%	4.15%	5.12%	3.95%
Township	23.44	24.05	26.45	27.83	1.52%	2.60%	9.98%	5.22%
USD	976.14	709.68	731.33	825.80	45.12%	-27.30%	3.05%	12.92%
Other Schools	83.99	92.35	96.42	98.66	5.39%	9.95%	4.41%	2.32%
Out District Tuition	10.09	9.18	8.14	8.50	0.46%	-9.02%	-11.33%	4.42%
Other Districts	63.61	65.60	72.12	77.08	4.21%	3.13%	9.94%	6.88%
<b>Totals</b>	<b>\$ <u>1,832.66</u></b>	<b><u>1,607.73</u></b>	<b><u>1,696.38</u></b>	<b><u>1,830.38</u></b>	<b><u>100.00%</u></b>			
Percent of Increase	10.8%	-12.3%	5.5%	7.9%				
CPI Increase	4.2%	3.0%	3.0%	2.8% Est				

The levy data was taken from the Department of Revenue's publication "Statistical Report of Property Assessment and Taxation" with adjustments by Kansas Legislative Research Department.

Jan 18, 95 12:42 No. 008 P. 03

TEL: 913-296-6841

913 296 6841  
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**LEGISLATIVE TESTIMONY**

**TO:** House Taxation Committee  
**FROM:** Chris McKenzie, Executive Director *W*  
**DATE:** March 16, 1995  
**SUBJECT:** Opposition to HCR 5006

Thank you for the opportunity to testify today in opposition to HCR 5006, the proposed constitutional spending lid on state taxation and spending and on county and city taxation. I appear on behalf of the 543 member cities of the League and their over 3,000 elected governing body members who are elected by the same electors who elect you and who visit with them on a daily basis about local spending priorities. Our opposition is grounded on both general and specific principles which are as follows:

**1. General**

In 1960 the voters of our state adopted Article 12, Section 5 of the Kansas Constitution, known popularly as the "home rule amendment". Through that amendment the people of our state delegated direct legislative powers to the cities of Kansas except as limited by the legislature. Two provisions of that amendment state the strong preference of the public for local control of municipal government:

(b) Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class: *Provided*, That the legislature may establish not to exceed four classes of cities for the purpose of imposing all such limitations or prohibitions...

(d) Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self government.

In 1996 we will celebrate the 35th anniversary of the Kansas home rule amendment which empowered city governing bodies with additional authority to solve local problems, subject only to limitations imposed by the legislature. It has liberated cities from the need to seek legislative blessing for every local action, thereby creating more self-sufficient and innovative local government.

HCR 5006 would deal a serious blow to the home rule amendment by imposing unjustified limitations on taxation decisions by city elected officials who are just as accountable to the electorate as their state legislative colleagues. It also would conflict with the home rule taxation provisions of Article 12, Section 5 of the Kansas constitutions quoted above.

## Specific Objections

**1. No Demonstrated Need.** Due to the fact local government actions are subject to more public scrutiny, local taxation decisions take place in a fish bowl which is generally well covered by the news media and followed by the public. As you know, many city councils' meetings have been on cable television for years. What could be better access short of being there? We are unaware of any information indicating a problem with the reasonableness of local taxation decisions. In fact, as the attached table from the Municipal Accounting Section indicates, cities have had among the lowest rates of increase in ad valorem taxes between 1991 and 1994. In other words, there seems to be no evidence of a need for this amendment with regard to cities. Given the importance of a constitutional amendment it would seem inappropriate to include provisions which are not supported by the evidence.

**2. Cities Are Already Subject to Considerable Legislative Restrictions.** Both before and since the 1960 home rule amendment, the legislature has exercised considerable control over local financial practices. These range from the 1930's cash basis and budget laws to today's property tax lid and fund levy rate limits. Furthermore, the legislature has preempted cities' ability to levy income and excise taxes, as well as other forms of revenue. There is no evidence of the legislature's inability to act to address a problem when one indeed arises.

**3. Cities Are Already Subject to Initiative and Referendum.** Cities are the only level of government in Kansas today subject to initiative and referendum (see K.S.A. 12-3013). HCR 5006 suggests that additional restrictions and oversight are necessary. In addition to the initiative and referendum law, cities are subject to numerous statutes which impose either mandatory referendum or petition for referendum opportunities. We hardly need yet another restriction.

**4. HCR 5006 Would Prevent Revenue Diversification.** Paragraph (g)(1) on page 3 limits the future ability of cities and the legislature to further diversify the revenue base of cities. To close the door at this time on such opportunities would seem neither prudent nor wise.

**5. No Emergency Provisions for Local Governments.** In contrast to the emergency provisions for state government, HCR 5006 authorizes no comparable emergency provisions for cities. This could impose a serious hardship on local units faced with significant emergency or economic development opportunities (e.g., Cessna plant project).

**6. No Provision Made for Bond Financing.** The resolution nowhere addresses the levying of increased taxes to pay bonded indebtedness for future bond issues.

**7. Intergovernmental Consolidation Inhibited.** Increasingly cities and counties are seeking ways to combine their services to save taxpayers' moneys and improve the cost-effectiveness of service delivery. In Wyandotte County close study is being made of city-county consolidation. No provision is included in the legislation for these changes and the shift of taxation authority to such entities.

### Conclusion

HCR 5006 would undo 35 years of history of self reliance and self governance that was authorized by the Kansas home rule amendment in 1960. For those legislators who ran last year on a platform of "local control", HCR 5006 will yield the exact opposite. It represents state micro-management of local affairs at its most excessive. Perhaps most importantly, the unintended consequences of this measure may be more important than its intended consequences. I have tried today to identify some of those possible unintended consequences, but I am sure many others remain to be discovered.

**RECOMMENDATION:** We strongly urge the Committee not to pass this measure or to restrict its application only to state government.

**Statewide Ad Valorem Levies By Type of Taxing District for 1991 to 1994**  
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KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 S.W. Arrowhead Rd. Topeka, Kansas 66604  
913-273-3600

TO: House Committee on Taxation  
FROM: Mark Tallman, Director of Governmental Relations  
DATE: March 20, 1995

RE: Statement on H.C.R. 5006, 5007 and 5023

Mr. Chairman, Members of the Committee:

As you consider the issue of imposing a constitutional limitation on the growth in state and local taxes and expenditures, the Kansas Association of School Boards appreciates the opportunity to express our views.

We believe that the need for public services, as determined by the elected representatives of the people, should be the benchmark of a governmental budget. We are concerned that imposing rigid annual limits in the constitution may hinder the ability of government to respond to legitimate public calls for action.

A case in point was the 1992 school finance act, in which the Legislature responded to legal challenges involving school district tax and budget equity, as well as public demand for reducing reliance on the property tax. That act required a substantial increase in state taxes and spending, but it also resulted in a substantial reduction in school district mill levies in most Kansas school districts. Opinion polls have consistently shown that a majority of Kansans supported that action. Enactment of that measure would probably not have been possible under the constitutional amendment you are considering, except by a special vote of the people, or "super majority" vote of the Legislature. The requirements would have made that action even more difficult than it was.

It should be noted that school district spending has for decades been limited by the Legislature by various means. Under the current school finance system, any increase in school district spending on a per pupil basis must be approved either by the Legislature (by increasing the base budget) or the people (by failing to protest or approving in an election local option budget resolutions). KASB does not support unlimited school district spending authority. But we also believe that state support for education should be based on deliberations by the legislative process, not by constitutional limitations.

Thank you for your consideration.

House Taxation  
3-20-95  
Attachment 2

# MEMORANDUM

## Kansas Legislative Research Department

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March 16, 1995

**To:** House Tax Subcommittee -- Chairman Les Donovan  
**From:** Lynne Holt, Principal Analyst  
**Re:** Amendments for Subcommittee Consideration on H.B. 2512

As directed by Representative Les Donovan, I am listing possible amendments to H.B. 2512, resulting from the Subcommittee's review of the bill and issues raised by the Department of Revenue in that agency's fiscal note.

1. P. 1, l. 29, add language *under K.S.A. 79-32,110* after the words *Kansas Income Tax Act* (Kansas Department of Revenue fiscal note).
2. P. 2, l. 28, add language to include zip codes as part of the description of the blighted area to be revitalized (Kansas Department of Revenue fiscal note).
3. P. 3, l. 35-37, change to beginning in fiscal year **1997** (see justification in N. 5), and include a sentence that provides that the total grant expenditures to all three boards may not exceed \$2 million per fiscal year. (Staff suggested clarification to correspond to p. 4, l. 22. )
4. P. 4, l. 5-6, consider deleting because the Department claims that state income tax cannot be attributed to blighted areas (Department of Revenue fiscal note and comments by Department staff).
5. P. 4, l. 13 and l. 17, change to January 1, 1997 from January 1, 1996. The reason is that law, if enacted, would take effect on July 1, 1995. There needs to be lead time to set a tracking mechanism up and pilots would have to be selected. The base year for collection of the tax data would be July 1, 1995 to June 30, 1996. In addition, the transfer from the EDIF would only affect the FY 1997 budget (and four years thereafter) and would not affect ongoing budget deliberations.
6. P. 4, l. 33-37, should there be any clarification as to who conducts the audit? Should the board be allowed to conduct its own audit?
7. P. 5, New Sec. 8 (b), see language in 1995 S.B. 203, which further amends the tax credit provisions related to the Community Services Program Act. Language should be consistent with modifications to the law. The tax credit carryforward should not

be included in the \$5 million annual credit limitation (Department of Revenue fiscal note).

8. P. 8, l. 20-22, should be amended to clarify that 100 percent of the charitable contribution receiving a credit may not be deducted (Department of Revenue fiscal note).
9. P. 10, l. 6, change the date to June 30, 2001 from 2000 since the funding transferred would only occur in January, 1997 and funding would begin in FY 1997. This would realize the intent of a five-year program duration.

Hope this helps! Let me know if you need additional information.



3/20/95

**HOUSE BILL No. 2512**

By Committee on Taxation

2-14

9 AN ACT concerning urban revitalization; authorizing grants for the fund-  
10 ing thereof; prescribing certain powers and duties to the secretary of  
11 the department of commerce and housing; providing certain tax in-  
12 centives; amending K.S.A. 1994 Supp. 40-2803, 40-2804, 74-5096 and  
13 79-32,117 and repealing the existing sections.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. As used in this act:

- 17 (a) "City" means any city in the state of Kansas.
- 18 (b) "Secretary" means the secretary of the department of commerce  
19 and housing.
- 20 (c) "Department" means the department of commerce and housing.
- 21 (d) "Committee" means the community strategic planning grant  
22 committee established by K.S.A. 74-5095, and amendments thereto.
- 23 (e) "Blighted area" means an area located within the corporate limits  
24 of a city which has been designated for revitalization by a board. Such  
25 area shall be no greater than an area equal to 25% of the total area of the  
26 city and shall be one contiguous area.
- 27 (f) "Business firm" means any business entity authorized to do busi-  
28 ness in the state of Kansas which is subject to the state income tax im-  
29 posed by the provisions of the Kansas income tax act, any national banking  
30 association, state bank, trust company or savings and loan association pay-  
31 ing an annual tax on its net income pursuant to article 11 of chapter 79  
32 of the Kansas Statutes Annotated, or any insurance company paying an  
33 annual tax on its net income pursuant to article 28 of chapter 40 of the  
34 Kansas Statutes Annotated.
- 35 (g) "Board" means any organization performing community services  
36 in Kansas including the revitalization of blighted areas and which:
  - 37 (1) Has obtained a ruling from the internal revenue service of the  
38 United States department of the treasury that such organization is exempt  
39 from income taxation under the provisions of section 501(c)(3) of the  
40 federal internal revenue code; or
  - 41 (2) is incorporated in the state of Kansas or another state as a non-  
42 stock, nonprofit corporation; or
  - 43 (3) has been designated as a community development corporation by

[K.S.A. 79-32,110, aat

33

1 the United States government under the provisions of title VII of the  
2 economic opportunity act of 1964; or

3 (4) is chartered by the United States congress.

4 New Sec. 2. The purposes of this act are to:

5 (a) Build and enhance revitalization efforts in blighted areas;

6 (b) develop and sustain long-term commitments for revitalization of  
7 blighted areas;

8 (c) encourage broad-based local revitalization strategies that build on  
9 strengths of the city and to complement and reinforce statewide economic  
10 revitalization efforts in blighted areas;

11 (d) maximize state investments in revitalization of blighted areas  
12 through more efficient implementation of limited resources; and

13 (e) encourage local initiatives to revitalize blighted areas.

14 New Sec. 3. (a) Subject to the provisions of this act, the department  
15 may provide grants to neighborhood revitalization boards for the imple-  
16 mentation of revitalization plans of blighted areas in cities.

17 (b) A board may submit an application for a grant in the manner  
18 provided by this section. An application shall include:

19 (1) The name and address of the board;

20 (2) the name and address of each member of the board;

21 (3) the names of the officers of the board;

22 (4) a copy of the board's by-laws;

23 (5) a copy of the board's strategic plan for revitalization;

24 (6) the resolution of approval if required by subsection (c);

25 (7) the identification of any private involvement in the implementa-  
26 tion of the plan including, but not limited to, monetary or in-kind dona-  
27 tions;

28 (8) a description of the blighted area to be revitalized including maps,  
29 drawings and photographs;

30 (9) the demographics of the blighted area to be revitalized;

31 (10) a list of the names and addresses of the people who were in-  
32 volved in the preparation of the revitalization plan;

33 (11) the method to be used to revise the revitalization plan, if nec-  
34 essary;

35 (12) the method or criteria to be used to measure the success of the  
36 revitalization plan;

37 (13) the identification of other governmental resources available to  
38 or which will be used by the board;

39 (14) the method of continued community input in the revitalization  
40 of the blighted area;

41 (15) a copy of the annual budget of the board;

42 (16) a procedure for an annual financial review or audit of the activ-  
43 ities of the board in relation to the blighted area; and

[. Such description shall include the zip code or zip codes of the blighted area

3-4

1 (17) any other information deemed necessary by the board.  
 2 (c) Prior to submitting an application to the committee, the board  
 3 shall submit the urban revitalization plan contained in the application to  
 4 the governing body of the city in which the blighted area is located. The  
 5 governing body shall review the urban revitalization plan to determine if  
 6 the revitalization plan is consistent with the strategic plan of the city. If  
 7 the revitalization plan is consistent with the strategic plan of the city, the  
 8 governing body shall adopt a resolution approving such plan. A copy of  
 9 such resolution shall be included in the application submitted to the com-  
 10 mittee. If the city has not adopted a strategic plan, the governing body  
 11 shall notify the board, in writing, that the city has not adopted a strategic  
 12 plan. Such notice shall be included in the board's application in lieu of a  
 13 resolution of approval.

14 (d) Applications for grants shall be submitted to the committee in the  
 15 manner required by the committee. The committee shall establish grant  
 16 eligibility and selection criteria for applicants and shall administer the  
 17 competitive selection process for the awarding of such grants. The com-  
 18 mittee shall submit its recommendations for grant awards to the secretary  
 19 for the final determination and award. When selecting an application for  
 20 approval the committee's consideration shall include, but not be limited  
 21 to:

- 22 (1) The amount of local investment in the revitalization plan, both
- 23 private and public;
- 24 (2) the amount of local community involvement, financially and oth-
- 25 erwise;
- 26 (3) whether there is a commitment to the continuance of existing
- 27 programs in the blighted area under the revitalization plan;
- 28 (4) whether there is an enhancement of existing programs in the
- 29 blighted area under the revitalization plan; and
- 30 (5) the percentage of the board's budget for salary and administra-
- 31 tion.

32 (e) The secretary shall approve three applications from those rec-  
 33 ommendations made by the committee. One of the applications shall be  
 34 from a board within a city having a population not exceeding 40,000.

35 (f) Beginning in fiscal year ~~1996~~ and each year thereafter, each of the  
 36 three boards whose applications have been selected for approval by the  
 37 secretary shall receive a grant not to exceed \$2,000,000. Such money shall  
 38 be used for the purposes specified in the board's plan and subject to the  
 39 terms and limitations specified by the secretary in such grant.

1997

each fiscal year

40 (g) The secretary shall adopt any rules and regulations necessary to  
 41 implement the provisions of this section.

42 New Sec. 4. (a) Subject to subsection (b), in each fiscal year, the  
 43 director of accounts and reports shall transfer monies derived from the

WS

1 following sources which are attributable to the blighted areas subject to  
2 a revitalization plan approved pursuant to section 3:

3 (1) State sales tax under K.S.A. 79-3601 *et seq.*, and amendments  
4 thereto;

5 (2) state income tax under K.S.A. 79-3201 *et seq.*, and amendments  
6 thereto; and

7 (3) state property taxes under K.S.A. 72-6431, 76-6601 *et seq.*, 79-  
8 2917 and 79-2918, and amendments thereto.

9 Such money shall be transferred from the state general fund and cred-  
10 ited to the urban revitalization fund created pursuant to section 5. All  
11 transfers under this section shall be considered to be demand transfers  
12 from the state general fund.

13 (b) Subject to the provisions of subsection (d) on January 1, 1996,  
14 and each year thereafter, the secretary of revenue shall certify to the  
15 director of accounts and reports the amount of revenue attributable to  
16 the blighted areas from the sources listed in subsection (a).

17 (c) On January 1, 1996, and each year thereafter, an amount equal to  
18 the moneys transferred pursuant to subsection (a) shall be transferred  
19 from the state economic initiatives development fund and credited to the  
20 state general fund.

21 (d) The amount of money transferred pursuant to subsection (a) shall  
22 not exceed \$2,000,000 from the revenue sources listed in subsection (a)  
23 which are generated from a blighted area.

24 (e) The provisions of this section shall expire June 30, 2000.

25 New Sec. 5. (a) On and after July 1, 1995, there is hereby created,  
26 in the state treasury, the urban revitalization fund. All moneys in the  
27 urban revitalization plan fund shall be expended in accordance with ap-  
28 propriations acts for the payment of grant money awarded pursuant to  
29 section 3. Such moneys shall be used only for the implementation of the  
30 revitalization plan and subject to the terms and conditions of the grant.

31 New Sec. 6. A board shall not issue any certificates of debt or oth-  
32 erwise incur any debt liability.

33 New Sec. 7. The board shall have an annual audit of its activities in  
34 the blighted area and give an accounting of the moneys received pursuant  
35 to this act. A copy of such audit shall be submitted to the committee and  
36 to the governing body of the city.

37 (b) Upon a finding of a violation of law or the conditions of the grant  
38 and upon a recommendation of the committee, the secretary may revoke  
39 a grant approved pursuant to this act or the secretary may authorize the  
40 governing body to administer the grant for the time remaining in the  
41 grant period.

42 New Sec. 8. (a) Any business firm as defined by section 1 which  
43 contributes to a neighborhood revitalization planning board, shall be al-

]\* Should this be deleted?

[1997

[each fiscal year

[2001

independent

9-6

1 lowed a credit, as provided in subsection (b), against the tax imposed by  
2 the Kansas income tax act, the tax on net income of national banking  
3 associations, state banks, trust companies or savings and loan associations  
4 imposed under article 11 of chapter 79 of the Kansas Statutes Annotated,  
5 or the tax on net income of insurance companies imposed under article  
6 28 of chapter 40 of the Kansas Statutes Annotated, if the board has been  
7 approved to receive a grant pursuant to section 3.

8 (b) The amount of credit allowed pursuant to this section shall not  
9 exceed 50% of the total amount contributed during the taxable year by  
10 the business firm to a board which has been approved to receive a grant  
11 pursuant to section 3. ~~Any tax credit not used for the taxable year the  
12 contribution was made may be carried over to any succeeding taxable  
13 year until the total amount of the credit is used. In no event shall the  
14 total amount of credits allowed under this section exceed \$5,000,000 for  
15 any one fiscal year.~~

16 (c) The provisions of this section shall be applicable to all taxable  
17 years beginning after December 31, 1994.

18 Sec. 9. K.S.A. 1994 Supp. 40-2803 is hereby amended to read as  
19 follows: 40-2803. For the purpose of computing the tax imposed upon  
20 life insurance companies under the provisions of this act the term "net  
21 income" shall mean the net taxable income for the preceding calendar  
22 year of such company as determined under the provisions of section 802  
23 of the internal revenue code of 1954, as heretofore or hereafter amended.  
24 The term "net income" shall not include dividends received from stock  
25 issued by Kansas Venture Capital, Inc. to the extent such dividends are  
26 included in the Kansas taxable income of a corporation, interest income  
27 on obligations of this state or a political subdivision thereof which is spe-  
28 cifically exempt from income tax under the laws of this state authorizing  
29 the issuance of such obligations. The term "net income" shall include the  
30 amount of any charitable contribution made to the extent the same is  
31 claimed as the basis for the credit allowed pursuant to K.S.A. 1994 Supp.  
32 79-32,196, and amendments thereto. *The term "net income" shall include*  
33 *the amount of any charitable contribution made to the extent the same is*  
34 *claimed as the basis for the credit allowed pursuant to section 8.* In case  
35 the entire business of such company is not transacted within this state,  
36 the net income for the purposes of this act shall be determined by mul-  
37 tiplying such net income by a fraction, the numerator of which shall be  
38 the premiums received from business transacted within this state and the  
39 denominator of which is the amount of premiums received by such com-  
40 pany from all its business. Insurance companies connected through stock  
41 ownership, which operate under common control and management are  
42 hereby authorized to make a consolidated return for the purpose of de-  
43 termining "net income" under the provisions of this section and inter-

*If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made. In no event shall the total amount of credits allowed under this section exceed \$5,000,000 for any one fiscal year, except that such amount shall be determined without regard to the amount of any credits being carried forward.*

3-7

1 company transactions shall not be considered or included for the purpose  
2 of such determination.

3 Sec. 10. K.S.A. 1994 Supp. 40-2804 is hereby amended to read as  
4 follows: 40-2804. For the purpose of computing the tax imposed under  
5 the provisions of this act the term "net income" as applied to a domestic  
6 fire and casualty insurance company shall mean the amount required to  
7 be reported as "net income" in the annual statement form required to be  
8 filed by such company with the Kansas commissioner of insurance under  
9 the provisions of K.S.A. 40-225, and amendments thereto; as applied to  
10 a domestic mutual hail insurance company the term "net income" shall  
11 mean the amount required to be reported as "net income," annual in-  
12 crease in reserve fund in section VII of the annual statement form re-  
13 quired to be filed by such company with the Kansas commissioner of  
14 insurance under the provisions of K.S.A. 40-225, and amendments  
15 thereto; and as applied to a domestic county mutual fire insurance com-  
16 pany the term "net income" shall mean the amount required to be re-  
17 ported as "net income," annual net gain in its combined reserve and  
18 general funds in section VII of the annual statement form required to be  
19 filed by such company with the Kansas commissioner of insurance under  
20 the provisions of K.S.A. 40-225, and amendments thereto. If any such  
21 domestic fire and casualty insurance company, domestic mutual hail in-  
22 surance company, or domestic county mutual fire insurance company  
23 does business in states other than Kansas its "net income" shall be de-  
24 termined by the proportion of net premiums (gross premiums less can-  
25 cellations) received from business written in Kansas compared to total  
26 net premiums received from all its business. Insurance companies con-  
27 nected through stock ownership with a common parent corporation,  
28 which operate under common control and management are hereby au-  
29 thorized to make a consolidated return for the purpose of determining  
30 "net income" under the provisions of this section and intercompany trans-  
31 actions shall not be considered or included for the purpose of such de-  
32 termination. If a domestic insurance company is exempt for any reason  
33 from filing an annual statement with the Kansas insurance department,  
34 its net income shall be determined in the same manner as herein pro-  
35 vided. For the purposes of this section, the term "net income" shall not  
36 include dividends received from stock issued by Kansas Venture Capital,  
37 Inc. to the extent such dividends are included in the Kansas taxable in-  
38 come of a corporation, interest income on obligations of this state or a  
39 political subdivision thereof which is specifically exempt from income tax  
40 under the laws of this state authorizing the issuance of such obligations.  
41 For the purposes of this section, the term "net income" shall include the  
42 amount of any charitable contribution made to the extent the same is  
43 claimed as the basis for the credit allowed pursuant to K.S.A. 1994 Supp.

1 79-32,196, and amendments thereto. The term "net income" shall include  
2 the amount of any charitable contribution made to the extent the same is  
3 claimed as the basis for the credit allowed pursuant to section 8.

4 Sec. 11. K.S.A. 1994 Supp. 74-5096 is hereby amended to read as  
5 follows: 74-5096. The department of commerce and housing shall admin-  
6 ister the provisions of this act to provide:

7 (a) Grants to city-county economic development organizations, lo-  
8 cated in nonmetropolitan counties, for the development and implemen-  
9 tation of county-wide economic development strategy plans.

10 (b) Grants to neighborhood revitalization organizations, located in  
11 metropolitan counties, for the development and implementation of urban  
12 revitalization strategy plans.

13 (c) Grants to neighborhood revitalization boards as authorized by  
14 section 3, for the revitalization of blighted areas.

15 Sec. 12. K.S.A. 1994 Supp. 79-32,117 is hereby amended to read as  
16 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
17 means such individual's federal adjusted gross income for the taxable year,  
18 with the modifications specified in this section.

19 (b) There shall be added to federal adjusted gross income:

20 (i) Interest income less any related expenses directly incurred in the  
21 purchase of state or political subdivision obligations, to the extent that  
22 the same is not included in federal adjusted gross income, on obligations  
23 of any state or political subdivision thereof, but to the extent that interest  
24 income on obligations of this state or a political subdivision thereof issued  
25 prior to January 1, 1988, is specifically exempt from income tax under the  
26 laws of this state authorizing the issuance of such obligations, it shall be  
27 excluded from computation of Kansas adjusted gross income whether or  
28 not included in federal adjusted gross income. Interest income on obli-  
29 gations of this state or a political subdivision thereof issued after Decem-  
30 ber 31, 1987, shall be excluded from computation of Kansas adjusted  
31 gross income whether or not included in federal adjusted gross income.

32 (ii) Taxes on or measured by income or fees or payments in lieu of  
33 income taxes imposed by this state or any other taxing jurisdiction to the  
34 extent deductible in determining federal adjusted gross income and not  
35 credited against federal income tax.

36 (iii) The federal net operating loss deduction.

37 (iv) Federal income tax refunds received by the taxpayer if the de-  
38 duction of the taxes being refunded resulted in a tax benefit for Kansas  
39 income tax purposes during a prior taxable year. Such refunds shall be  
40 included in income in the year actually received regardless of the method  
41 of accounting used by the taxpayer. For purposes hereof, a tax benefit  
42 shall be deemed to have resulted if the amount of the tax had been de-  
43 ducted in determining income subject to a Kansas income tax for a prior

1 year regardless of the rate of taxation applied in such prior year to the  
2 Kansas taxable income, but only that portion of the refund shall be in-  
3 cluded as bears the same proportion to the total refund received as the  
4 federal taxes deducted in the year to which such refund is attributable  
5 bears to the total federal income taxes paid for such year. For purposes  
6 of the foregoing sentence, federal taxes shall be considered to have been  
7 deducted only to the extent such deduction does not reduce Kansas tax-  
8 able income below zero.

9 (v) The amount of any depreciation deduction or business expense  
10 deduction claimed on the taxpayer's federal income tax return for any  
11 capital expenditure in making any building or facility accessible to the  
12 handicapped, for which expenditure the taxpayer claimed the credit al-  
13 lowed by K.S.A. 79-32,177, and amendments thereto.

14 (vi) Any amount of designated employee contributions picked up by  
15 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
16 and amendments ~~to such sections~~ thereto.

17 (vii) The amount of any charitable contribution made to the extent  
18 the same is claimed as the basis for the credit allowed pursuant to K.S.A.  
19 1994 Supp. 79-32,196, and amendments thereto.

20 (viii) *The amount of any charitable contribution made to the extent*  
21 *the same is claimed as the basis for the credit allowed pursuant to section*  
22 *8.*

23 (c) There shall be subtracted from federal adjusted gross income:

24 (i) Interest or dividend income on obligations or securities of any  
25 authority, commission or instrumentality of the United States and its pos-  
26 sessions less any related expenses directly incurred in the purchase of  
27 such obligations or securities, to the extent included in federal adjusted  
28 gross income but exempt from state income taxes under the laws of the  
29 United States.

30 (ii) Any amounts received which are included in federal adjusted  
31 gross income but which are specifically exempt from Kansas income tax-  
32 ation under the laws of the state of Kansas.

33 (iii) The portion of any gain or loss from the sale or other disposition  
34 of property having a higher adjusted basis for Kansas income tax purposes  
35 than for federal income tax purposes on the date such property was sold  
36 or disposed of in a transaction in which gain or loss was recognized for  
37 purposes of federal income tax that does not exceed such difference in  
38 basis, but if a gain is considered a long-term capital gain for federal in-  
39 come tax purposes, the modification shall be limited to that portion of  
40 such gain which is included in federal adjusted gross income.

41 (iv) The amount necessary to prevent the taxation under this act of  
42 any annuity or other amount of income or gain which was properly in-  
43 cluded in income or gain and was taxed under the laws of this state for a



1 taxable year prior to the effective date of this act, as amended, to the  
2 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
3 the right to receive the income or gain, or to a trust or estate from which  
4 the taxpayer received the income or gain.

5 (v) The amount of any refund or credit for overpayment of taxes on  
6 or measured by income or fees or payments in lieu of income taxes im-  
7 posed by this state, or any taxing jurisdiction, to the extent included in  
8 gross income for federal income tax purposes.

9 (vi) Accumulation distributions received by a taxpayer as a beneficiary  
10 of a trust to the extent that the same are included in federal adjusted  
11 gross income.

12 (vii) Amounts received as annuities under the federal civil service  
13 retirement system from the civil service retirement and disability fund  
14 and other amounts received as retirement benefits in whatever form  
15 which were earned for being employed by the federal government or for  
16 service in the armed forces of the United States.

17 (viii) Amounts received by retired railroad employees as a supple-  
18 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
19 *et seq.*

20 (ix) Amounts received by retired employees of a city and by retired  
21 employees of any board of such city as retirement allowances pursuant to  
22 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
23 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
24 amendments thereto.

25 (x) For taxable years beginning after December 31, 1976, the amount  
26 of the federal tentative jobs tax credit disallowance under the provisions  
27 of 26 U.S.C. 280c. For taxable years ending after December 31, 1978,  
28 the amount of the targeted jobs tax credit and work incentive credit dis-  
29 allowances under 26 U.S.C. 280c.

30 (xi) For taxable years beginning after December 31, 1986, dividend  
31 income on stock issued by Kansas Venture Capital, Inc.

32 (xii) For taxable years beginning after December 31, 1989, amounts  
33 received by retired employees of a board of public utilities as pension and  
34 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249  
35 and amendments thereto.

36 (xiii) For taxable years beginning after December 31, 1993, the  
37 amount of income earned on contributions deposited to an individual  
38 development account under K.S.A. 1994 Supp. 79-32,117h, and amend-  
39 ments thereto.

40 (d) There shall be added to or subtracted from federal adjusted gross  
41 income the taxpayer's share, as beneficiary of an estate or trust, of the  
42 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and  
43 amendments thereto.

3-11

1 (e) The amount of modifications required to be made under this sec-  
2 tion by a partner which relates to items of income, gain, loss, deduction  
3 or credit of a partnership shall be determined under K.S.A. 79-32,131,  
4 and amendments thereto, to the extent that such items affect federal  
5 adjusted gross income of the partner.

6 New Sec. 13. The provisions of this act shall expire June 30, ~~2000~~.

[ 2001

7 Sec. 14. K.S.A. 1994 Supp. 40-2803, 40-2804, 74-5096 and 79-32,117  
8 are hereby repealed.

9 Sec. 15. This act shall take effect and be in force from and after its  
10 publication in the statute book.

3-12

3/20/95

**HOUSE BILL No. 2513**

By Committee on Taxation

2-14

9 AN ACT concerning property subject to delinquent property taxes; es-  
10 tablishing the Wyandotte county land bank; amending K.S.A. 79-2804f  
11 and K.S.A. 1994 Supp. 19-101a and 79-2801 and repealing the existing  
12 sections.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. As used in this act:

- 16 (a) "County" means Wyandotte county, Kansas.
- 17 (b) "Board" means the board of trustees of the Wyandotte county  
18 land bank.
- 19 (c) "Bank" means the Wyandotte county land bank established pur-  
20 suant to this act.

21 New Sec. 2. (a) The board of county commissioners of Wyandotte  
22 county may establish the Wyandotte county land bank by adoption of a  
23 resolution.

24 (b) The bank shall be governed by a board of trustees consisting of  
25 three members. The governing body of the city of Kansas City, Kansas  
26 shall appoint one member to the board; the board of education of the  
27 school district in Wyandotte county having the largest enrollment shall  
28 appoint one member; and the board of county commissioners of Wyandotte  
29 county shall appoint one member. No person holding an elective  
30 office shall be appointed to the board. The member first appointed by  
31 the city shall serve for a term of one year and until a successor is appointed  
32 and qualified. The member first appointed by the school district shall  
33 serve for a term of two years and until a successor is appointed and qual-  
34 ified. The member first appointed by the county shall serve for a term of  
35 three years and until a successor is appointed and qualified. Thereafter,  
36 members shall be appointed for terms of three years and until successors  
37 are appointed and qualified. Vacancies on the board shall be filled by  
38 appointment for the unexpired term.

39 (c) Members of the board of trustees shall receive no compensation,  
40 but shall be paid their actual and necessary expenses in attending meet-  
41 ings and in carrying out their duties as members of the board.

42 New Sec. 3. Any property located in Wyandotte county acquired by  
43 the board of county commissioners of Wyandotte county any city or other

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1 taxing subdivision located within Wyandotte county may be transferred  
2 to the bank. The transfer of any property pursuant to this section shall  
3 not be subject to any bidding requirement and shall be exempt from any  
4 provision of law requiring a public sale.

The board may accept or refuse to accept any property authorized to be transferred pursuant to this section.

5 New Sec. 4. ~~If property has been or shall be sold and bid by the~~  
6 ~~county, and the redemption period has expired, such property shall revert~~  
7 ~~to the bank. Such property shall not be subject to the provisions of K.S.A.~~  
8 ~~79-2801 et seq., and amendments thereto.~~

9 New Sec. 5. The board shall assume possession and control of any  
10 property acquired by it under this act and shall hold and administer such  
11 property. In the administration of property, the board shall:

Any property offered for sale by the county under K.S.A. 79-2801 et seq., act, which is not sold by the sheriff and upon acceptance by the board, shall revert to the bank.

12 (a) Manage, maintain and protect or temporarily use for a public pur-  
13 pose such property in the manner it deems appropriate;

14 (b) compile and maintain a written inventory of all such property.  
15 The inventory shall be available for public inspection and distribution at  
16 all times;

17 (c) study, analyze and evaluate potential, present and future uses for  
18 such property which would provide for the effective reutilization of such  
19 property;

20 (d) plan for, and use its best efforts to consummate, the sale or other  
21 disposition of such property at such times and upon such terms and con-  
22 ditions deemed appropriate; ~~and~~

23 (e) establish and maintain records and accounts reflecting all trans-  
24 actions, expenditures and revenues relating to the bank's activities, in-  
25 cluding separate itemizations of all transactions, expenditures and reve-  
26 nues concerning each individual parcel of property acquired.

(c) The board may acquire land by purchase, gift or donation.

(d) The board may accept a deed in lieu of foreclosure.

(e) The board may rebate, for a period not to exceed five years, an amount equal to the taxes on any property sold by the bank.

27 New Sec. 6. (a) The board, without competitive bidding, may sell  
28 any property acquired by the board at such times, to such persons, and  
29 upon such terms and conditions, and subject to such restrictions and  
30 covenants deemed necessary or appropriate to assure the property's ef-  
31 fective reutilization.

32 (b) The board, for purposes of land disposition, may consolidate, as-  
33 semble or subdivide individual parcels of property acquired by the bank.

34 ~~(c) The board may abate the taxes on any property sold by the bank~~  
35 ~~for a period not to exceed five years;~~

36 New Sec. 7. When the board sells any property acquired as a part of  
37 the land reutilization program, the proceeds from such sale shall be re-  
38 tained by the board for application to the payment of costs and expenses  
39 of operation and activities of the bank.

Until sold or otherwise disposed by the bank, any

40 New Sec. 8. (a) Any property acquired by the bank shall be exempt  
41 from the payment of ad valorem taxes levied by the state and any other  
42 political or taxing subdivision of the state.

43 (b) When the board acquires property pursuant to this act, the county

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1 treasurer shall remove from the tax rolls all taxes, assessments, charges,  
2 penalties and interest that are due and payable on the property at the  
3 time of acquisition by the board.

4 ~~New Sec. 9. Any moneys derived from the sale of property by the~~  
5 ~~bank shall be retained by the bank.~~

6 New Sec. 10. The board may establish separate neighborhood advi-  
7 sory committees consisting of persons living or owning property within  
8 the county. The board shall determine the boundaries of each neighbor-  
9 hood. Each neighborhood advisory committee shall consist of not less  
10 than five nor more than nine persons, to be appointed by the board for  
11 two-year overlapping terms. The board shall consult with each neighbor-  
12 hood advisory committee at least quarterly to review the operations and  
13 activities of the bank and to receive the advice of the members of the  
14 neighborhood advisory committee concerning any matter which comes  
15 before the committees.

16 Sec. 11. K.S.A. 1994 Supp. 79-2801 is hereby amended to read as  
17 follows: 79-2801. (a) Except as provided by K.S.A. 1994 Supp. 79-2811,  
18 or section 4, and amendments thereto, whenever real estate has been or  
19 shall be sold and bid in by the county at any delinquent tax sale and  
20 remains unredeemed on September 1 of the second year after the sale,  
21 or any extension thereof as provided by subsection (b) of K.S.A. 79-2401a,  
22 and amendments thereto, or whenever real estate described by subsec-  
23 tion (a)(2) of K.S.A. 79-2401a, and amendments thereto, has been or shall  
24 be sold and bid in by the county at any delinquent tax sale and remains  
25 unredeemed on September 1 of the first year after the sale, the board of  
26 county commissioners shall order the county attorney or county counselor  
27 and it shall be the duty of the county attorney or county counselor to  
28 institute an action in the district court, in the name of the board of county  
29 commissioners, against the owners or supposed owners of the real estate  
30 and all persons having or claiming to have any interest therein or thereto,  
31 by filing a petition with the clerk of the court. The board of county com-  
32 missioners may provide for special legal and other assistance necessary to  
33 secure the timely performance of duties required by this act. Whenever  
34 the real estate involved is a mineral interest in land which has been sev-  
35 ered from the fee, the bringing of the action for the foreclosure of the  
36 mineral interest shall be within the discretion of the board of county  
37 commissioners. Whenever the aggregate assessed valuation of the real  
38 estate subject to sale is less than \$300,000, or the aggregate amount of  
39 delinquent taxes, including special assessments, is less than \$10,000, the  
40 bringing of the action shall be within the discretion of the board of county  
41 commissioners. The petition shall contain a description of each tract, lot  
42 or piece of real estate including, if in a city of the first or second class,  
43 the street number or location. The petition shall state, as far as practi-

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1 cable, the amount of taxes, charges, interest and penalties chargeable to  
2 each tract, lot or piece of real estate, the name of the owner, supposed  
3 owner and party having or claiming to have any interest therein or thereto,  
4 and giving the year the real estate was sold for delinquent taxes under  
5 the provisions of K.S.A. 79-2302, and amendments thereto. The petition  
6 shall request that the court determine the amount of taxes, charges, in-  
7 terest and penalties chargeable to each particular tract, lot or piece of  
8 real estate, the name of the owner or party having any interest therein  
9 and that the court adjudge and decree the amount due to be a first and  
10 prior lien upon the real estate and that the same be sold at public sale  
11 for the satisfaction of the lien, costs, charges and expenses of the pro-  
12 ceedings and sale and other necessary relief. The petition shall be filed  
13 in duplicate and a copy delivered by the clerk to the county treasurer,  
14 who thereafter shall accept no payments of taxes upon the real estate  
15 included in the petition except as provided by K.S.A. 79-2801 to 79-2810,  
16 inclusive, and amendments thereto.

17 A summons shall be issued and personally served or publication made  
18 as provided in other cases under the code of civil procedure. If service is  
19 made by publication, the notice, in addition to the requirements pre-  
20 scribed by the code of civil procedure, shall contain a description of the  
21 real estate. Any member of the board of county commissioners, county  
22 attorney or county counselor who fails to perform the duties required by  
23 this section shall forfeit the office held by the officer. Any person may  
24 secure enforcement of the provisions of this act through mandamus. Such  
25 proceeding shall be initiated by filing a petition in a court of competent  
26 jurisdiction.

27 (b) The governing body of any city may provide for the rendering of  
28 legal and other assistance to the county attorney or county counselor to  
29 secure the expeditious judicial foreclosure of real estate on which there  
30 is unredeemed delinquent tax liens, including delinquent special assess-  
31 ments. The provision of such services by the city shall not relieve any  
32 county officer of the requirement to perform the duties required by this  
33 act. The actual and necessary costs incurred by a city in providing such  
34 assistance shall be considered as costs incident to the sale of the real estate  
35 and the city may be reimbursed therefor from the proceeds of the sale  
36 in an amount apportioned pursuant to K.S.A. 79-2805, and amendments  
37 thereto.

38 Sec. 12. K.S.A. 79-2804f is hereby amended to read as follows: 79-  
39 2804f. (a) The county commissioners shall keep a record of all real estate  
40 acquired by the county under the provisions of K.S.A. 79-2804 ~~or~~, and  
41 amendments thereto, showing: The case by name, title and number, to-  
42 gether with the date of filing of the petition and of the sale and identifying  
43 the tract, lot or piece of real estate described therein; the amount of

1 judgment lien and the amount set forth in the order of sale of the charges,  
2 costs; and expenses of the proceeding and sale paid by the county. Such  
3 record shall upon request be open to inspection at all reasonable times.

4 (b) *Except as provided by subsection (c)*, such real estate shall be sold  
5 by the board of county commissioners of ~~said the~~ county at private or  
6 public sale for cash in hand; the consideration for the purchase to be at  
7 least the original amount of the judgment lien and interest thereon as  
8 provided by law, plus the amount of costs set forth in the order of sale  
9 and plus any and all subsequent taxes and special assessments on said real  
10 estate that were not included in said judgment. If in the discretion of the  
11 board of county commissioners it be deemed necessary to prevent a men-  
12 ace to the public health or welfare, or that repair or rehabilitation of any  
13 structures thereon would be economically unsound, ~~said the~~ board may  
14 remove or cause to be removed any such improvements upon any prop-  
15 erty acquired by the county under the provisions of this act. The board  
16 of county commissioners may sell all or any of the salvaged materials  
17 therefrom at public or private sale, and after first deducting the cost of  
18 such removal, shall credit the remainder of such proceeds to the county  
19 general fund. Any deficiency shall be charged to such general fund.

20 If, at the end of six ~~(6)~~ months from and after the confirmation of ~~said~~  
21 *the* sale to the county to any of ~~said the~~ real estate, any of ~~said the~~ real  
22 estate remains unsold, the board of county commissioners may reduce  
23 the price therefor and sell the same after first advertising the same once  
24 each week for three ~~(3)~~ consecutive weeks in ~~said the~~ county describing  
25 ~~said the~~ real estate, giving the location thereof and requesting sealed bids  
26 therefor on or before a specified date and ~~said the~~ board shall accept the  
27 highest cash bid received: ~~Provided, however,~~. The board of county com-  
28 missioners may reject bids in an amount less than the current market  
29 value of ~~said the~~ real estate and if no bid ~~be is~~ accepted or received, such  
30 board may sell the same for such sum that, in ~~their the board's~~ judgment,  
31 would be the market value thereof, but no such sale shall be made for an  
32 amount less than the best bid received, if any, and rejected: ~~Provided,~~  
33 ~~however,~~. The board of county commissioners, at any time after the end  
34 of six ~~(6)~~ months from and after the confirmation of ~~said the~~ sale to the  
35 county and after advertising such real estate at least three ~~(3)~~ times in the  
36 official county paper and such other papers as the board shall direct,  
37 describing the same, giving the general location thereof, and the time and  
38 place of sale, may sell such real estate at public auction for cash in hand  
39 to the highest bidder therefor.

40 All real estate sold by ~~said the~~ county as provided in this ~~section sub-~~  
41 *section* shall be conveyed to the purchaser by a good and sufficient deed  
42 by the county clerk of ~~said the~~ county upon a written order from the  
43 board of county commissioners. Such order shall be deemed conclusive

1 evidence of the compliance with this section in any action challenging the  
2 validity of such deed. Immediately upon the execution of any such deed,  
3 the county clerk shall assess the real estate so conveyed and enter the  
4 valuation thereof on the assessment and tax rolls.

5 *(c) Any property acquired by the board of county commissioners of*  
6 *Wyandotte county pursuant to K.S.A. 79-2804, and amendments thereto,*  
7 *may be transferred to the Wyandotte county land bank.*

8 Sec. 13. K.S.A. 1994 Supp. 19-101a is hereby amended to read as  
9 follows: 19-101a. (a) The board of county commissioners may transact all  
10 county business and perform all powers of local legislation and adminis-  
11 tration it deems appropriate, subject only to the following limitations,  
12 restrictions or prohibitions:

13 (1) Counties shall be subject to all acts of the legislature which apply  
14 uniformly to all counties.

15 (2) Counties may not consolidate or alter county boundaries.

16 (3) Counties may not affect the courts located therein.

17 (4) Counties shall be subject to acts of the legislature prescribing  
18 limits of indebtedness.

19 (5) In the exercise of powers of local legislation and administration  
20 authorized under provisions of this section, the home rule power con-  
21 ferred on cities to determine their local affairs and government shall not  
22 be superseded or impaired without the consent of the governing body of  
23 each city within a county which may be affected.

24 (6) Counties may not legislate on social welfare administered under  
25 state law enacted pursuant to or in conformity with public law No. 271—  
26 74th congress, or amendments thereof.

27 (7) Counties shall be subject to all acts of the legislature concerning  
28 elections, election commissioners and officers and their duties as such  
29 officers and the election of county officers.

30 (8) Counties shall be subject to the limitations and prohibitions im-  
31 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
32 prescribing limitations upon the levy of retailers' sales taxes by counties.

33 (9) Counties may not exempt from or effect changes in statutes made  
34 nonuniform in application solely by reason of authorizing exceptions for  
35 counties having adopted a charter for county government.

36 (10) No county may levy ad valorem taxes under the authority of this  
37 section upon real property located within any redevelopment area estab-  
38 lished under the authority of K.S.A. 12-1772, and amendments thereto,  
39 unless the resolution authorizing the same specifically authorized a por-  
40 tion of the proceeds of such levy to be used to pay the principal of and  
41 interest upon bonds issued by a city under the authority of K.S.A. 12-  
42 1774, and amendments thereto.

43 (11) Counties shall have no power under this section to exempt from



1 any statute authorizing or requiring the levy of taxes and providing sub-  
2 stitute and additional provisions on the same subject, unless the resolution  
3 authorizing the same specifically provides for a portion of the proceeds  
4 of such levy to be used to pay a portion of the principal and interest on  
5 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
6 ments thereto.

7 (12) Counties may not exempt from or effect changes in the provi-  
8 sions of K.S.A. 19-4601 to 19-4625, inclusive, and amendments thereto.

9 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101  
10 to 12-1,109, inclusive, and amendments thereto, counties may not levy  
11 and collect taxes on incomes from whatever source derived.

12 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
13 430, and amendments thereto. Any charter resolution adopted by a  
14 county prior to July 1, 1983, exempting from or effecting changes in  
15 K.S.A. 19-430, and amendments thereto, is null and void.

16 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
17 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

18 (16) Counties may not exempt from or effect changes in K.S.A. 13-  
19 13a26, and amendments thereto. Any charter resolution adopted by a  
20 county, prior to the effective date of this act, exempting from or effecting  
21 changes in K.S.A. 13-13a26, and amendments thereto, is null and void.

22 (17) Counties may not exempt from or effect changes in K.S.A. 71-  
23 301, and amendments thereto. Any charter resolution adopted by a  
24 county, prior to the effective date of this act, exempting from or effecting  
25 changes in K.S.A. 71-301, and amendments thereto, is null and void.

26 (18) Counties may not exempt from or effect changes in K.S.A. 19-  
27 15,139, 19-15,140 and 19-15,141, and amendments thereto. Any charter  
28 resolution adopted by a county prior to the effective date of this act,  
29 exempting from or effecting changes in such sections is null and void.

30 (19) Counties may not exempt from or effect changes in the provi-  
31 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
32 1226, ~~and amendments thereto, or the provisions of K.S.A. 1994 Supp.~~  
33 12-1260 to 12-1270, inclusive, and 12-1276, *and amendments thereto.*

34 (20) Counties may not exempt from or effect changes in the provi-  
35 sions of K.S.A. 19-211, and amendments thereto.

36 (21) Counties may not exempt from or effect changes in the provi-  
37 sions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto.

38 (22) Counties may not regulate the production or drilling of any oil  
39 or gas well in any manner which would result in the duplication of reg-  
40 ulation by the state corporation commission and the Kansas department  
41 of health and environment pursuant to chapter 55 and chapter 65 of the  
42 Kansas Statutes Annotated and any rules and regulations adopted pur-  
43 suant thereto. Counties may not require any license or permit for the

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1 drilling or production of oil and gas wells. Counties may not impose any  
2 fee or charge for the drilling or production of any oil or gas well.

3 (23) Counties may not exempt from or effect changes in K.S.A. 79-  
4 41a04, and amendments thereto.

5 (24) Counties may not exempt from or effect changes in K.S.A. 1994  
6 Supp. 79-1611, and amendments thereto.

7 (25) Counties may not exempt from or effect changes in K.S.A. 1994  
8 Supp. 79-1494, and amendments thereto.

9 (26) Counties may not exempt from or effect changes in subsection  
10 (b) of K.S.A. 19-202, and amendments thereto.

11 (27) *Counties may not exempt from or effect changes in sections 1 to*  
12 *14, inclusive.*

13 (28) *Counties may not exempt from or effect changes in K.S.A. 79-*  
14 *2801 or 79-2804f.*

15 (b) Counties shall apply the powers of local legislation granted in  
16 subsection (a) by resolution of the board of county commissioners. If no  
17 statutory authority exists for such local legislation other than that set forth  
18 in subsection (a) and the local legislation proposed under the authority  
19 of such subsection is not contrary to any act of the legislature, such local  
20 legislation shall become effective upon passage of a resolution of the  
21 board and publication in the official county newspaper. If the legislation  
22 proposed by the board under authority of subsection (a) is contrary to an  
23 act of the legislature which is applicable to the particular county but not  
24 uniformly applicable to all counties, such legislation shall become effec-  
25 tive by passage of a charter resolution in the manner provided in K.S.A.  
26 19-101b, and amendments thereto.

27 Sec. 14. K.S.A. 79-2804f and K.S.A. 1994 Supp. 19-101a and 79-2801  
28 are hereby repealed.

29 Sec. 15. This act shall take effect and be in force from and after its  
30 publication in the statute book.

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